

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

RUFUS HUMPHREY,

Petitioner,

vs.

Case No. 3:04cv301

WARDEN, LONDON CORRECTIONAL
INSTITUTION,

JUDGE WALTER HERBERT RICE

Respondent.

DECISION AND ENTRY ADOPTING INITIAL (DOC. #8) AND
SUPPLEMENTAL (DOC. #11) REPORTS AND RECOMMENDATIONS OF
UNITED STATES MAGISTRATE JUDGE IN THEIR ENTIRETY;
PETITIONER'S OBJECTIONS TO SAID JUDICIAL FILINGS (DOCS. #9
AND #12) OVERRULED; JUDGMENT TO ENTER IN FAVOR OF
RESPONDENT AND AGAINST PETITIONER, DISMISSING PETITIONER'S
PETITION FOR WRIT OF HABEAS CORPUS, WITH PREJUDICE;
CERTIFICATE OF APPEALABILITY AND ANTICIPATED LEAVE TO
APPEAL *IN FORMA PAUPERIS* DENIED; TERMINATION ENTRY

Pursuant to the reasoning and citations of authority set forth by the United States Magistrate Judge in his Initial (Doc. #8) and Supplemental (Doc. #11) Reports and Recommendations, as well as upon a thorough review of the applicable law and a *de novo* review of this Court's file, this Court adopts said Reports and Recommendations in their entirety, thus ordering the entry of judgment in favor of the Respondent and against Petitioner herein, dismissing the

Defendant's Petition for Writ of Habeas Corpus, with prejudice. This Court concludes, as did the Magistrate Judge, that the first three grounds set forth by the Petitioner are procedurally defaulted and, even if not, they fail upon the merits, as do the fourth and fifth grounds for relief.

The Petitioner's Objections to said judicial filings (Docs. #9 and #12) are overruled.

Because reasonable jurists could not disagree with this Court's conclusion rendered herein, adopting the Reports and Recommendations of the United States Magistrate Judge, and, further, given that the Petitioner has failed to make out a substantial showing of the denial of a constitutional right, this Court denies the Petitioner a Certificate of Appealability. Further, given that any appeal from this Court's decision would be objectively frivolous, this Court denies an anticipated request for leave to appeal *in forma pauperis*.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

/s/ Walter Herbert Rice

July 17, 2007

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Rufus Humphrey, #419-960, LCI, P.O. Box 69, London, OH 43140-0069

Chief Magistrate Judge Michael R. Merz